IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO. 40 OF 2005
IN
WRIT PETITION NO. 6697 OF 2003

Shri Aslam s/o Asgar Chejara ... . Appellant
V/s
The State of Maharashtra & Ors... ..... Respondents

Mr.P.M. Pradhan, Adv. for the appellant.

Mr.S.R.Nargolkar, AGP for respondent No.1-State.

Mr.S.G.Surana, Adv. For respondent No.2.

Mr.S.V.Shetty i/by M.P.Vashi for respondent No.3.

CORAM: V.G. PALSHIKAR

AND

D.B. BHOSALE, JJ.

11.10.2005.

PC:

This appeal under clause 15 of the Letters Patent Appeals of this Court is directed against an order dated 20.1.2005 passed in Writ Petition No.6697 of 2003.

2. The disputes in this case pertains to entitlement of a hutment from Zopadpatti Punarvasan Pradhikaran. The petitioner one Smt.Gani and one Shri Papa Miyan had certain disputes regarding their entitlement which were taken to the Appellate Authority and the Appellate Authority directed reconsideration of the matter as per its order. Accordingly the matter was

taken back to Zopadpatti Punarvasan Pradhikaran who by its order dated 16.8.2003 decided the dispute which essentially was a dispute of fact.

3. This order passed by the Pradhikaran was challenged before this Court and the matter was considered by the learned Single Judge of this Court. It is this order which is impugned in this appeal.

4. The learned Judge has noted the entire controversy before him. The documentary evidence which was part of appeal record was considered and after considering the respective claims the learned Single Judge has observed thus:

> " These are purely findings of fact based on the evidence and contentions advanced before the authority. It was not the stand of the petitioner before the authority that he has an independent structure unconnected with the claim of Respondent No.3 and that he has no claim for the structure claimed by Respondent No.3. This is therefore not a fit case for this Court to exercise its extra ordinary jurisdiction."

It is undisputed that the jurisdiction of this Court under Article 226 and/or 227 of the Constitution of India is an extra ordinary jurisdiction which is to be exercised by judicious discretion of the presiding Court. We have perused the impugned order. This rejection of the petition and refusal to exercise jurisdiction cannot by any stretch of imagination be termed as non judicious or inappropriate. Therefore in our opinion, there is no substance in this appeal and the same is dismissed. Accordingly civil application, if any, stands disposed of.